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THE DEMOCRATIC REPUBLIC OF VIETNAM

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FOREWORD

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Following is the translation of an article by Le
Dich Hieu in Sotsialisticheskaya Zakonnost'
(Socialist Law), No. 6, Moscow, June 1961, pages
57-58.

The party of the workers of Vietnam and the people's government of the Democratic Republic of Vietnam devote considerable attention to the task of consolidating people's democratic law. A number of decisions made by the party point out the necessity of consolidating law, considering it one of the most important conditions for strengthening the people's democratic order.

The 8th National Assembly of the Democratic Republic of Vietnam, which took place in April of 1958, adopted a resolution concerning the creation of a central procurator's office (central prosecutor's office). The new constitution adopted in December of 1959 expanded the role and the authority of the procuracy; it delineated the principal basic positions pertaining to its organization and activities. In carrying out its duties the procurator's office is not dependent on any local organs. A law adopted on 15 July 1960 during the first session of the second convocation of the National Assembly, which went into effect on the order of the president on 26 July 1960, established the rights and functions of the procurator's office. The utilization of experience acquired by the procurator organs in the Soviet Union and the Chinese People's Republic were of great significance to the development of that law. V.I. Lenin's letter "About 'dual' subordination and legality" was studied very carefully. All of Lenin's basic thoughts pertaining to supervision by the procuracy formed the basis of the law pertaining to the organization of the people's procuracy of the Democratic Republic of Vietnam.

Let us examine the basic contentions of that law. It charges the people's procuracy with the task of supervising the observance of the law at the center and locally by public servants and private citizens. The law clearly formulates the goals and tasks confronting the procuracy. In establishing these tasks the law makers based themselves on the class nature of the social and state organization of the Democratic Republic of Vietnam, and on the concrete, historically evolved situation in the country.

In determining the tasks for the people's procuracy and methods for fulfilling them, the law also points out the basic principles of its organization and activity. Article 5 of the law establishes that, in fulfilling its functions, the people's procuracy is guided by the principle of equality of all citizens before the law, regardless of sex, national origin, religion, social position or origin. According to Article 6 the local people's procuracy operates with full independence and the local state organs do not have the authority to interfere in its work. In direct contact with the principle of independence is the principle of unification and centralization which in turn are a guarantee of the independence of the people's procuracy. In accordance with Article 107 of the Constitution the law pertaining to the organization of the people's procuracy subordinates the lower procuracies to the higher ones and all of them are under the jurisdiction of a single center--the Supreme People's Procuracy (Article 6).

The law concerning the organization of the people's procuracy stipulates the principle of collegiality in the organization and activities of the procuracy. This principle will allow the organs of the procuracy to reveal all the circumstances of various cases in a profound and serious manner and to properly resolve complex tasks facing the procuracy. The establishment of the collegiality principle was brought about by a number of specific peculiarities: weakness of the cadres, and a lack of adequate experience and knowledge among the procuracy workers.

The law stipulates the creation of collegiums in almost all of the procuracy organs.

In accordance with Article 4 of the law the procuracy system of the Democratic Republic of Vietnam consists of the Supreme People's Procuracy, local procuracies and military procuracies. The Supreme People's Procuracy includes the chief procurator, his deputy and members of the procuracy. In addition to these positions there is also a position of candidate for membership in the procuracy. The work of the procuracy is directed by the chief procurator who is elected by the National Assembly for a five year term. The deputy chief procurator, members and candidates for membership in the Supreme People's procuracy, as well as members of the collegium are appointed and removed by the Permanent Committee of the National Assembly on recommendation of the chairman of the Permanent Committee.

The Supreme People's Procuracy is headed by the Collegium of the Procuracy, which includes the chief procurator, his deputy and several members of the procuracy. The collegium conducts discussions and adopts resolutions pertaining to the overall questions which determine the activities of that agency.

The Supreme People's Procuracy is responsible to the National Assembly and is accountable to it; during the periods of time between its sessions it is accountable to the Permanent Committee of

the National Assembly. The law gives the Supreme People's Procuracy the right of legislative initiative. In accordance with Article 8 of the law it has the right to present drafts of laws, or orders pertaining to its activities either to the National Assembly or the Permanent Committee.

Chapter 2 of the law outlines the methods and forms of supervision to be exercised by the procuracy over the execution of the laws. In order to give the organs of the people's procuracy the means to fulfill their duties in supervising the legality of the acts performed by the administrative organs the law grants them certain rights. According to Article 10 of the law the people's procuracy, in fulfilling its duties, has the right to acquaint itself with the necessary material, documents, to attend the sessions of the appropriate organs and to make spot checks in order to ascertain whether the laws are being complied with. The law also gives the procuracy a right to object to certain indictments issued not in accordance with the law. According to Article 9 of the law the Supreme People's Procuracy has the right to object to decisions, orders, circulars and instructions issued by organs under the jurisdiction of the Council of Ministers and by local governmental agencies, if they are in contradiction with the laws.

The third chapter of the law is devoted to the procuracy's supervision over the execution of the laws, the activity of the militia and other investigation agencies. The people's procuracy is called upon to carry out supervisory duties in order to make certain that not a single crime goes unresolved and not a single criminal escapes responsibility, to be certain that not a single citizen is subjected to unlawful arrest and to an unfounded criminal charge or to other unlawful limitations of his democratic rights. The arrest of any citizen may be carried out only if sanctioned by the procuracy, with the exception of cases where an arrest is made in accordance with an order of the people's court. In case the organs of investigation believe that the procuracy at their level is incorrect in refusing to sanction an arrest or to initiate criminal court action, they have the right to take the matter to the next higher people's procuracy (Article 16).

Of great significance is the procuracy's supervision of the courts. The law stipulates the rights and duties of the people's procuracy which exercises supervision over the execution of the laws in legal work. The right to protest sentences administered by the local people's courts is delegated only to the Supreme People's Procuracy. If the local people's procurators reveal errors in sentences or decisions made by the people's courts on their level of jurisdiction or those below them, they then report that to the Supreme People's Procuracy for the proper registration of the protest.

Of special importance in the activity of the organs of the procuracy is the matter of supervising corrective labor institutions.

The law charges the people's procuracy with this task in order to make certain that these institutions would not contain a single innocent citizen and so that the rules and regulations pertaining to the treatment of prisoners would be strictly observed. In exercising supervision over the legal files of those in prisons, the people's procuracy has the right to examine all the documents, to question the prisoners, and to free anyone who is being held in prison illegally. In cases where a violation of the law is revealed the people's procuracy demands that those responsible for it be dismissed by the administration, and in cases where a crime is evident it demands appropriate punishment. The prison administrations are obligated to forward to the people's procuracy any complaints or statements from prisoners within 24 hours. The people's procuracy must examine them and advise the prisoner of its decision.

The organization, the tasks and the methods of carrying out the functions of the people's procuracy of the Democratic Republic of Vietnam, established by law, characterize its socialist nature.

The law pertaining to the organization of the people's procuracy is an important link in the system of measures designed to strengthen law in the Democratic Republic of Vietnam.